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34845	7590	06/23/2008		
Anderson Gorecki & Manaras LLP 33 NAGOG PARK ACTON, MA 01720			EXAMINER ALAM, UZMA	
			ART UNIT 2157	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/930,097	<b>Applicant(s)</b> MONGA ET AL.	
	<b>Examiner</b> UZMA ALAM	<b>Art Unit</b> 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 3/17/08.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is responsive to the arguments filed May 8, 2007. Claims 1-12, 14-36 are pending. Claims 1-12, 14-36 represent a method for provisioning bandwidth.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12, 14-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sistanizadeh et al. US Patent No. 6,681,232 in view of Ghani US Patent No. 6,728,484. Sistanizadeh teaches the invention as claimed including a method for provisioning bandwidth (see abstract). Ghani teaches provisioning an optical network (see abstract).

As per claims 1 Sistanizadeh teaches an Apparatus for providing bandwidth management services for a user in an optical communication system, comprising;

the optical service agent including:

an application programming interface [API 113] operative to receive input from a user application indicative of application-specific bandwidth management service requirements (end user customer requests bandwidth increase, the SLM can be accessed by the NOC or by a

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customer using a web based interface; column 2, lines 63-67; column 5, lines 54-67; column 6, lines 54-67; column 7, lines 10-40);

a user-to-network interface (UNI) for interfacing with an optical communication network (column 7, lines 1-40);

a peer-to-peer interface for interfacing with peer users (personal computers; column 7, lines 1-40); and

optical service logic for interfacing with the application programming interface [API 113] and the communication network via the UNI and with the peer users via the peer-to-peer interface for providing said application specific bandwidth management services for the user (SLM Application Server; column 5, lines 34-55; Figure 2; customer request increase in bandwidth; column 5, lines 54-67; column 6, lines 54-65); and

an optical service server operative to authenticate the user, obtain network topological information, and to employ the network topological information on behalf of the optical service agent for providing bandwidth management services such that the network topological information is not exposed to the user (provisioning service module, authenticates user and user has options to increase or decrease bandwidth, but the user does not access the network topology, the topology is accessed by the provisioning service module column 21, lines 15-63).

Sistanizadeh does not teach in which data is processed and transported on in optical form, and including the provision of a new optical communication path between specified nodes in the optical communication network.

Ghani et al. teaches in which data is processed and transported on in optical form, and including the provision of a new optical communication path between specified nodes in the

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optical communication network. See column 1, lines 40-49; column 4, lines 50-67; column 5, lines 20-25; column 7, lines 49-60; column 9, lines 13-30; column 10, lines 5-49.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the provision of Sistanizadeh with the all optical network of Ghani et al. A person of ordinary skill in the art would have been motivated to do this to provide adequate provisioning of the backbone network (Sistanizadeh column 5, lines 54-64).

As per claims 12 and 24 Sistanizadeh teaches the device comprising:

a user application requiring communication services from an optical communication network (column 7, lines 40-47); and

and optical service agent operative in response to signaling from the user application [end user customer requests bandwidth increase, the SLM can be accessed by the NOC or by a customer using a web based interface; column 2, lines 63-67; column 5, lines 54-67; column 6, lines 54-67; column 7, lines 10-40] for providing bandwidth management services for the user application (optical service logic; Figure 2; column 5, lines 34-55); and

an optical service server operative to authenticate the user, obtain network topological information, and to employ the network topological information on behalf of the optical service agent for providing bandwidth management services such that the network topological information is not exposed to the user (provisioning service module, authenticates user and user has options to increase or decrease bandwidth, but the user does not access the network topology, the topology is accessed by the provisioning service module column 21, lines 15-63).

Sistanizadeh does not teach in which data is processed and transported on in optical form, and including the provision of a new optical communication path between specified nodes in the optical communication network.

Ghani teaches in which data is processed and transported on in optical form, and including the provision of a new optical communication path between specified nodes in the optical communication network. See column 1, lines 40-49; column 4, lines 50-67; column 5, lines 20-25; column 7, lines 49-60; column 9, lines 13-30; column 10, lines 5-49.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the provision of Sistanizadeh with the all optical network of Ghani et al. A person of ordinary skill in the art would have been motivated to do this to provide adequate provisioning of the backbone network (Sistanizadeh column 5, lines 54-64).

As per claim 31, Sistanizadeh teaches a method for managing bandwidth for a user in an optical communication system, the method comprising at least one of:

Monitoring bandwidth utilization by an optical service agent in the user on a connection in the optical communication system (column 1, lines 45-67);

Controlling bandwidth utilization by an optical service agent in the user on a connection in the optical communication system (11, lines 34-64; column 15, lines 19-55);

Obtaining additional bandwidth by an optical service agent in the user on a connection in the optical communication system (column 19, lines 1-35);

Relinquishing unused bandwidth by an optical service agent in the user on a connection in the optical communication system (column 21, lines 45-67); and

Allocating bandwidth by an optical service agent in the user among multiple connections in the optical communication system (column 21, lines 45-67; column 22, lines 15-27; Figure 9);

Prior to which an optical service server executes the following steps:

authenticate the user, obtain network topological information, and to employ the network topological information on behalf of the optical service agent for providing bandwidth management services such that the network topological information is not exposed to the user (provisioning service module, authenticates user and user has options to increase or decrease bandwidth, but the user does not access the network topology, the topology is accessed by the provisioning service module column 21, lines 15-63).

Sistanizadeh does not teach in which data is processed and transported on in optical form, and including the provision of a new optical communication path between specified nodes in the optical communication network.

Ghani et al. teaches in which data is processed and transported on in optical form, and including the provision of a new optical communication path between specified nodes in the optical communication network. See column column 1, lines 40-49; column 4, lines 50-67; column 5, lines 20-25; column 7, lines 49-60; column 9, lines 13-30; column 10, lines 5-49.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the provision of Sistanizadeh with the all optical network of Ghani et al. A person of ordinary skill in the art would have been motivated to do this to provide adequate provisioning of the backbone network (Sistanizadeh column 5, lines 54-64).

As per claims 2, 14, and 25 Sistanizadeh and Ghani et al. teach the apparatus of claims 1, 13, 24 wherein the optical communication network comprises an automatically switched optical/transport network (ASON), and wherein the UNI comprises an ASON UNI (Sistanizadeh column 30, lines 19-32).

As per claim 13, Sistanizadeh and Ghani teach the device of claim 12, wherein the optical service agent comprises:

a user-to-network interface (UNI) for interfacing with an optical communication network (Sistanizadeh; column 7, lines 1-40);

a peer-to-peer interface for interfacing with peer users (Sistanizadeh; personal computers; column 7, lines 1-40); and

optical service logic for interfacing with the application programming interface [API 113] and the communication network via the UNI and with the peer users via the peer-to-peer interface for providing said bandwidth management services for the user (Sistanizadeh; SLM Application Server; column 5, lines 34-55; Figure 2; customer request increase in bandwidth; column 5, lines 54-67; column 6, lines 54-65); and

As per claims 3, 15 and 26 Sistanizadeh and Ghani et al. teach the apparatus of claims 1, 13 and 24 wherein the optical service logic comprises:

bandwidth monitoring logic for monitoring bandwidth utilization on a connection (Sistanizadeh column 17, lines 45-67; column 15, lines 18-35; column 19, lines 21-35).



As per claims 4, 16, and 27, Sistanizadeh and Ghani et al. teach the apparatus of claims 1, 13, and 24, wherein the optical service logic comprises:

bandwidth controlling logic for controlling bandwidth utilization on a connection  
(Sistanizadeh column 15, lines 20-55).

As per claims 5, 17 and 28 Sistanizadeh and Ghani et al. teach the apparatus of claims 1, 13 and 24, wherein the optical service logic comprises:

bandwidth obtaining logic for obtaining additional bandwidth for a connection  
(Sistanizadeh column 11, lines 34-67; column 19, lines 1-20; column 21, lines 45-67; column 22, lines 15-27).

As per claims 6, 18 and 29, Sistanizadeh and Ghani et al. teach the apparatus of claims 1, 13, and 24, wherein the optical service logic comprises:

bandwidth relinquishing logic for relinquishing excess bandwidth for a connection  
(Sistanizadeh column 11, lines 34-67; column 19, lines 1-20; column 21, lines 45-67; column 22, lines 15-27).

As per claims 7, 19 and 30 Sistanizadeh and Ghani et al. teach the apparatus of claims 1, 13 and 24, wherein the optical service logic comprises:

bandwidth allocation logic for allocating bandwidth among multiple connections  
(Sistanizadeh column 11, lines 34-67; column 19, lines 1-20; column 21, lines 45-67; column 22, lines 15-27).

As per claims 8, 20 and 32 Sistanizadeh and Ghani et al. teach the apparatus of claims 4, 16 and 31 wherein the bandwidth controlling logic is operably coupled to prevent bandwidth utilization on the connection from exceeding a predetermined maximum bandwidth utilization (Sistanizadeh column 15, lines 20-55).

As per claims 9, 21 and 34, Sistanizadeh and Ghani et al. teach the apparatus of claims 5, 17 and 31 wherein the bandwidth obtaining logic is operably coupled to obtain the additional bandwidth for the connection upon determining that bandwidth utilization on connection exceeds a predetermined level (Sistanizadeh column 15, lines 18-35; column 17, lines 45-67; column 19, lines 21-35).

As per claims 10, 22 and 35, Sistanizadeh and Ghani et al. teach the apparatus of claims 6, 18 and 31 wherein the bandwidth relinquishing logic is operably coupled to relinquish excess bandwidth for the connection upon determining that bandwidth utilization on the connection is below a predetermined level (Sistanizadeh column 15, lines 20-55; column 11, lines 34-67; column 19, lines 1-35; column 21, lines 45-67; column 22, lines 15-27).

As per claims 11, 23 and 36 Sistanizadeh and Ghani et al. teach the apparatus of claims 7, 19 and 31 wherein the bandwidth allocation logic is operably coupled to identify an over-utilized connection and an under-utilized connection and to transfer traffic from the over-utilized

connection to the under-utilized connection Sistanizadeh (column 15, lines 20-55; column 11, lines 34-67; column 19, lines 1-35; column 21, lines 45-67; column 22, lines 15-27).

As per claim 33, Sistanizadeh and Ghani et al. teach the method of claim 32 wherein taking an action to prevent the bandwidth utilization from exceeding a predetermined maximum bandwidth utilization comprises dropping packets (Sistanizadeh column 15, lines 20-55; column 11, lines 34-67; column 19, lines 1-35; column 21, lines 45-67; column 22, lines 15-27).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to UZMA ALAM whose telephone number is (571)272-3995. The examiner can normally be reached on Mondays and Tuesdays 5:30 - 2.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Uzma Alam  
Ua  
June 17, 2008

/Ario Etienne/  
Supervisory Patent Examiner, Art Unit 2157